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U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



FILE:



Office: Texas Service Center Date:

APR 23 2004

IN RE:

Applicant:



PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF PETITIONER:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Cindy N. Gomer
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant failed to establish that she met the qualification for late initial registration, as she filed her TPS application after the initial registration period from January 5, 1999 to August 20, 1999. The applicant filed her first application on July 12, 2002.

On appeal, the applicant states that she meets the requirements to be granted TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state as designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Continuously physically present means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

Continuously resided means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On February 10, 2003, the applicant was provided the opportunity to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her identity and her residence in the United States since December 30, 1998. The applicant, in response, provided evidence of her identity and some evidence of her residence in the United States. She did not present evidence of her eligibility for late registration. The director therefore denied the application.

On appeal, the applicant states that she previously applied for TPS and employment authorization in 1999. According to the applicant, she has lived with her mother since her arrival in the United States and her mother also applied and was granted TPS in 1999. The applicant states that she does not know why it is so difficult for her to obtain TPS as well. However, the applicant has failed to provide any evidence of a prior application for TPS or employment authorization. Furthermore, there is nothing in the record to support her claim. The applicant also submits additional documentation regarding her continuous residence and physical presence in the United States.

Specifically, the applicant provided a personal statement; statements from [REDACTED] and photocopies of various other receipts and a lease. In her statement, the applicant states that she entered the United States on January 11, 1997, and has lived with her mother since then. The applicant also claims that she worked as a babysitter, but was paid in cash and therefore, has no receipts. Ms. [REDACTED] claims that she has known the applicant since May 1998 and that she employed the applicant as a baby sitter from May 1998 until August 1998, and paid her cash. Mr. [REDACTED] states that he has known the applicant and her mother since January 1999.

The applicant also provided additional documents, including a copy of a lease. The latest date on the documents is on the lease, which was signed on August 1, 1999. However, the applicant has not provided any rent receipts or other documentation to support her claim. The applicant claims to have lived in the United States since 1997. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim; however, no such evidence has been provided.

Furthermore, the applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Outside of the director's decision, it should be noted that the evidence in the record is insufficient to establish the applicant's continuous residence and physical presence in the United States since December 30, 1998 and January 5, 1999, respectively. The applicant has not provided any substantive evidence dated after August 1, 1999. The applicant did provide two hand-written receipts dated May 20, 1999 and May 5, 2002. The hand-written receipts are not supported by any corroborative evidence. Furthermore, the credibility of these documents is suspect since the receipts bear sequential receipt numbers and the number on the May 5, 2002 receipt precedes the May 20, 1999 receipt. Therefore, these receipts carry little evidentiary weight and will not serve to establish the applicant's eligibility. The applicant also provided a photocopy of an identification document issued on May 30, 2000, by the Honduran Consular General in Coral Gables, Florida. However, the applicant has failed to establish her continuous residence and physical presence in the United States since December 30, 1998 and January 5, 1999 respectively.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.